

Exhibit 6

**THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

TAMMY KITZMILLER, et al.,

Plaintiffs,

V.

DOVER AREA SCHOOL DISTRICT and
DOVER AREA SCHOOL DISTRICT
BOARD OF DIRECTORS,

Defendants.

Case No. 04-CV-2688

Hon. Judge Jones

DECLARATION OF EMILY ZANOTTI

I, Emily Zanotti, make this declaration pursuant to 28 U.S.C. § 1746 and based on my personal knowledge.

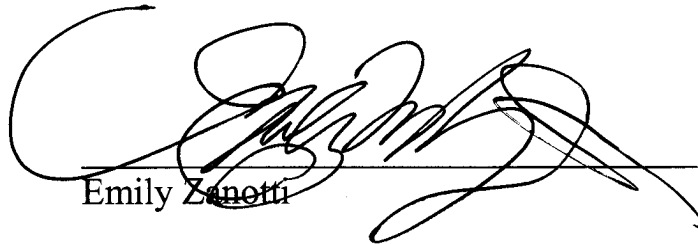
1. I am an extern working with the Thomas More Law Center in Ann Arbor, Michigan. I make this declaration in support of Defendants' Motion for Summary Judgment.

2. Attached to this declaration as Exhibit A is a true and accurate copy of portions of the Conference Report for the No Child Left Behind Act of 2001, which can be found at the Library of Congress website (www.loc.gov).

3. Attached to this declaration as Exhibit B is a true and accurate copy of the statement that Senator Santorum made following the passage of the No Child Left Behind Act of 2001. This statement is found at 147 Cong. Rec. S13365-07, 2001 WL 1613966.

I declare (or certify, verify, or state) under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on this 12 day of July, 2005.



Emily Zanotti

107TH CONGRESS }
1st Session

HOUSE OF REPRESENTATIVES

{ REPORT
107-334

NO CHILD LEFT BEHIND ACT OF 2001

CONFERENCE REPORT

TO ACCOMPANY

H.R. 1



DECEMBER 13 (legislative day, DECEMBER 12), 2001.—Ordered to be printed

U.S. GOVERNMENT PRINTING OFFICE

76-598

WASHINGTON : 2001

702

75. The House bill and the Senate amendment are substantially similar with the exceptions indicated in notes 40 and 50 regarding references to standards and assessments, and with the exception indicated in note 76.

LC

76. The House bill and the Senate amendment are similar with the exception that the House bill, but not the Senate amendment, references regulations published by the Secretary relating to the standards and assessments required under Title I, part A.

SR

77. The House bill does not contain a similar provision.

HR with an amendment to strike subparagraph (H) and insert the following as a new subparagraph (H):

“(H) The accountability provisions under this Act shall be overseen for charter schools in accordance with State charter school law.”

Report Language:

“Charter schools are public schools and therefore subject to the same accountability requirements of this Act as they apply to other public schools, including Sections 1111 and 1116, as developed in each state. However, there is no intent to replace or duplicate the role of authorized chartering agencies, as established under each state’s charter school law, in overseeing the Act’s accountability requirements for the charter schools that they authorize. Authorized chartering agencies should be held accountable for carrying out their oversight responsibilities as determined by each state through its charter school law and other applicable state laws. This should be done in ways that do not inhibit or discourage the approval or oversight of innovative, high quality charter schools.”

78. The House bill and the Senate amendment are similar with following exceptions: (1) The House bill, but not the Senate amendment, refers to the State implementing a set of assessments; (2) The Senate amendment, but not the House bill, refers to consultation with LEAs in the assessment plan; (3) The Senate amendment, but not the House bill, requires science assessments, but provides an exception that such assessments shall not be required until the 2007–2008 school year; (4) The House bill, but not the Senate amendment, refers to the yearly performance progress of the State; (5) The House bill, but not the Senate amendment, refers to “challenging” standards; and (6) See notes 40 and 50 regarding references to standards and assessments.

SR with an amendment to:

Insert “in consultation with local educational agencies,” after “that the State”, insert “and science” after “language arts”, insert after “achievement standards” and before the period the following: “except that no State shall be required to meet the requirements of this part relating to science assessments until the beginning of the 2007–2008 school year”.

Insert before “Such assessments shall—” the following language:

“Each State may incorporate the data from these assessments into a state-developed longitudinal data system that

links student test scores, length of enrollment, and graduation records over time.”

LC regarding references to standards and assessments.
Report Language:

“The Conferees are aware of, and encouraged by, initiatives undertaken in some States to enable parents and others to compare the progress of students, classrooms and schools on a longitudinal basis. The Conferees wish to make clear that States may incorporate the data from the assessments required under this subsection into a state-developed longitudinal data system that links students’ test scores, length of enrollment, and graduation records over time. Such systems may enable policymakers, educators, and parents to better evaluate the success of schools by reporting on the achievement of students enrolled in the same school for at least three years.”

“The Conferees recognize that a quality science education should prepare students to distinguish the data and testable theories of science from religious or philosophical claims that are made in the name of science. Where topics are taught that may generate controversy (such as biological evolution), the curriculum should help students to understand the full range of scientific views that exist, why such topics may generate controversy, and how scientific discoveries can profoundly affect society.”

79. The House bill and the Senate amendment are the same with the exception indicated in note 40 regarding references to standards.

LC

80. The House bill and the Senate amendment are similar with the following exception: The Senate amendment, but not the House bill, refers to “nationally” recognized standards of testing that are developed and used by “national experts on educational testing”.

HR with an amendment to strike “developed and . . . on educational testing;”

81. The Senate amendment does not contain a similar provision.

HR

82. The House bill does not contain a similar provision.

HR with an amendment to insert after “Act,” the words “and are consistent with the requirements of this section.”

83. The House bill requires assessments in at least mathematics and reading or language arts at least once in the grade spans listed. The Senate amendment requires assessments to commence not later than the 01–02 school year for students served under Title I, part A in mathematics and reading or language arts at least once in the grade spans listed.

SR with an amendment:

“(E)(i) except as otherwise provided for grades 3 through 8 under subparagraph [(G)], measure the proficiency of students in, at a minimum, mathematics and reading or language arts, and be administered not less than once during—

“(I) grades 3 through 5;

147 Cong.Rec. S13365-07
147 Cong. Rec. S13365-07, 2001 WL 1613966 (Cong.Rec.)
(Cite as: 147 Cong. Rec. S13365-07)

B
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This reauthorization allows States to help schools that have not met their annual goal through the dedication of additional resources to help turn the school around, while guaranteeing students access to supplemental services to bolster their education. Students are not trapped in failing schools, as the conference report ensures that students in a failing school can transfer to another public school if their home school is considered to be failing for more than 1 year.

In order to have accountability there needs to be some sort of ruler by which to measure the school's success. I am pleased that the conference report allows States to determine not only the assessment system but also the annual achievement goals.

My own State of Maine has worked for several years to develop its own assessment system to ensure that our students, and our schools, are achieving. Having witnessed the evolution of Maine's Learning Results Program over the past several years, I would not support this conference report if I thought that it would interfere with Maine's efforts. To the contrary, I believe it would build on those efforts, and therefore I will support passage of the conference report. Additionally, passage of the conference report is supported by Maine's Commissioner of Education, Duke Albanese.

My support for this package is tempered only by my disappointment that the conferees did not fully fund the Individuals with Disabilities Education Act or IDEA. The Senate, by a unanimous vote, supported the inclusion of mandatory full funding for IDEA during consideration of the ESEA bill in the spring.

IDEA is an unfunded mandate that is draining precious resources from our States and in each and every community. Twenty-six years ago, Congress committed to paying 40 percent of IDEA funding, and we have yet to come close. While Congress has more than doubled IDEA funding over the past 5 years, the Federal Government has not contributed more than 15 percent of the total cost of IDEA.

Full funding would free up billions of dollars nationwide, and approximately \$60 million in Maine, freeing up local and State education money which can then be used for other pressing needs. Throughout my tenure in Congress, I have fought for full funding of IDEA and this is a fight I will not give up.

Those conferees who opposed including the full funding provisions in this conference report argued that this program cannot be made mandatory until the program is reformed and reauthorized. Fortunately, IDEA is due for reauthorization next year and I will be working to ensure that it is fully funded.

I appreciate the diligence of my colleagues who sit on the Senate Health, Education, Labor, and Pensions Committee in this effort, and I look forward to supporting this conference report and sending it to the President for his signature. I believe this legislation will make an important difference in the future of our children as well as our Nation.

Mr. SANTORUM.

Mr. President, I am very gratified that the House and Senate conferees included in the conference report of the elementary and secondary education bill the language of a resolution I introduced during the earlier Senate debate. That resolution concerned the teaching of controversies in science. It was adopted 91-8 by the Senate. By passing it we were showing our desire that students studying controversial issues in science, such as biological evolution, should be allowed to learn about competing scientific interpretations of evidence. As a result of our vote today that position is about to become a position of the Congress as a whole.

When the Senate bill was first under discussion in this body, I referenced an excellent Utah Law Review article, Volume 2000, Number 1, by David K. DeWolf, Stephen C. Meyer and Mark Edward DeForrest. The authors demonstrate that teachers have a constitutional right to teach, and students to learn, about scientific controversies, so long as the discussion is about science, not religion or

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philosophy. As the education bill report language makes clear, it is not proper in the science classrooms of our public schools to teach either religion or philosophy. But also, it says, just because some think that contending scientific theories may have implications for religion or philosophy, that is no reason to ignore or trivialize the scientific issues embodied in those theories. After all, there are enormous religious and philosophical questions implied by much of what science does, especially these days. Thus, it is entirely appropriate that the scientific evidence behind them is examined in science classrooms. Efforts to shut down scientific debates, as such, only serve to thwart the true purposes of education, science and law.

There is a question here of academic freedom, freedom to learn, as well as to teach. The debate over origins is an excellent example. Just as has happened in other subjects in the history of science, a number of scholars are now raising scientific challenges to the usual Darwinian account of the origins of life. Some scholars have proposed such alternative theories as intelligent design. In the Utah law review article the authors state, "... The time has come for school boards to resist threats of litigation from those who would censor teachers, who teach the scientific controversy over origins, and to defend their efforts to expand student access to evidence and information about this timely and compelling controversy."

The public supports the position we are taking today. For instance, national opinion surveys show to use the origins issue again—that Americans overwhelmingly desire to have students learn the scientific arguments against, as well as for, Darwin's theory. A recent Zogby International poll *S13378 shows the preference on this as 71 percent to 15 percent, with 14 percent undecided. The goal is academic excellence, not dogmatism. It is most timely, and gratifying, that Congress is acknowledging and supporting this objective.

Mr. ROBERTS.

Mr. President, I am pleased that with the passage of this legislation, we are on our way to assisting our Nation's schools in providing a quality education for each and every child. I want to thank Senators

Kennedy and

Gregg, Congressmen

Boehner and

Miller and their staffs for their hard work in crafting a bipartisan piece of legislation that will give children the opportunity to succeed in the classroom.

I am also happy to see that this legislation includes an emphasis on math and science education. Senator

Frist, Congressman

Ehlers and myself have worked hard to make ensure that there is a renewed focus on a portion of education curricula that needs addressing. Scores on the National Assessment for Educational Progress, NAEP, test in the subject area of science have not improved over the last several years and, in fact, have been lower than previous years test scores. Seniors in high school who took the 2000 NAEP science test scored, on average, three points lower than those taking the test in 1996. Only 18 percent correctly answered challenging science questions, down from 21 percent and those students who knew just the basics dropped to 53 percent. This is simply unacceptable.

According to an Associated Press article that appeared in the Kansas City Star on November 20, many science teachers complain that they can't persuade school officials to give them the time or money required for training. Our math and science provision in this bill addresses this very problem through a variety of ways, including: one, improving and upgrading the status and stature of mathematics and